IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

Bail Appl..No. 7343 of 2007()

CRIME NO. 737/07 OF CHALAKKUDY POLICE STATION

PETITIONER/2ND ACCUSED

RAVIKUMAR,S/O. KUMARAN
AGED 45 YEARS, CHIMBU NIVAS, (KANAKKAMATTIL)
KEZHAKKEPURAM, KOTTUVALLY, NORTH PARAVUR
ERNAKULAM DISTRICT.

BY ADV. SRI.LIJU. M.P
SRI.G.PADMARAJ

RESPONDENTS: STATE

STATE OF KERALA
REPRESENTED BY SUB INSPECTOR OF POLICE
CHALAKKUDY POLICE STATION
REP. BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 30/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

- -

B.A.No. 7343 of 2007

- -

Dated this the 30th day of November, 2007

O R D E R

Application for anticipatory bail. The petitioner is the second accused. He faces allegations for offences punishable under Sections 406 and 420 I.P.C. The crime has been registered on the basis of a private complaint filed by the defacto complainant, which was referred by the learned Magistrate to the police under Section 156(3) Cr.P.C.

2. The crux of the allegations is that the first accused had obtained a Lancer car belonging to the defacto complainant on a monthly rent. He allegedly misused the said vehicle and did not return it. He allegedly dealt with the vehicle clandestinely in collusion with the petitioner herein. The vehicle was available in the premises of the petitioner. The same has been seized by the police. Investigation is in progress. Both accused have not been arrested. The petitioner apprehends imminent arrest.

3. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He had entered into a proper legal transaction with the first accused on the basis of a written agreement. Accepting the claim of the first accused that he is the owner of the vehicle, in possession of the same, he had agreed to purchase the vehicle from the first accused. He had advanced an amount of Rs.2 Lakhs and had secured possession of the vehicle. It is absolutely false to contend that the petitioner has any contumacious involvement with the first accused. If the allegations of the prosecution were true, the petitioner has also been taken for a ride by the first accused. In any view of the matter, the petitioner does not deserve to suffer the trauma of arrest and detention. He may be granted anticipatory bail, prays the counsel.

4. Called upon to explain any specific circumstance to indicate the contumacious involvement of the petitioner, the learned Prosecutor is unable to point out any circumstance, except that the vehicle was in the possession of the petitioner. The petitioner has produced a copy of an agreement allegedly executed between him and the first accused.

5. The learned Prosecutor opposes the application. But notwithstanding the opposition, in the facts and circumstances of the case, I am satisfied that directions under Section 438 Cr.P.C. can be issued in favour of the petitioner.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 7.12.2007 at 11 a.m. The learned Magistrate shall release the petitioner on regular bail on condition that he executes a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 8.12.07 and 9.12.2007. During this period, the investigators shall be at liberty to interrogate the petitioner in custody and take all necessary steps in connection with the investigation. Thereafter he shall appear before the

Investigating Officer on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 7.12.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(d) If the petitioner were arrested prior to his surrender on 7.12.9.2006 as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.50,000/- without any surety undertaking to appear before the learned Magistrate on 7.12.2007.

(R. BASANT)
Judge

tm